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TELECOMMUNICATION COVER PAGE

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NAME: Charles BrantleyAREA CODE & FAX NO.: 703-308-6916 TELEPHONE NO.: \_\_\_\_\_FROM: Irving KeschnerDATE: 11/5/02 NO. OF PAGES (INCLUDING COVER) 7FILE NO.: Sum No. 10/636, 167 CLIENT: \_\_\_\_\_ORIGINAL WILL BE MAILED: \_\_\_\_\_ YES ☒ NOMESSAGE (IF ANY): ATTACHED IS THE REQUEST FOR RECONSIDERATIONTHAT WE DISCUSSED EARLIER. IRVING KESCHNER

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OPERATOR: \_\_\_\_\_ SENT: DATE: \_\_\_\_\_ TIME: \_\_\_\_\_

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Walter N. Bakly, Jr. )  
Serial No. 10/036,167 )  
Filing Date: January 4, 2002 )  
METHOD FOR APPLYING )  
RETROREFLECTIVE TARGET TO A )  
SURFACE )

REQUEST FOR RECONSIDERATION

Commissioner for Patents  
Washington, D.C. 20231

Sir:

The undersigned hereby requests that the Patent and Trademark Office reconsider the decision of June 14, 2002 denying applicant's petition to grant the above-identified application a new filing date.

In a telephone conversation with Petitions Attorney Steven Brantley on June 24, 2002, the undersigned was advised that the information provided in the petition filed on February 15, 2002 was insufficient and that additional information would be required if the decision dismissing the petition is to be reconsidered. In this regard, the undersigned has enclosed a declaration setting forth the steps taken to deposit the application with the United States Postal Service on October 31, 2001.

In addition, the undersigned noted to Examiner Brantley there would be actual harm to the applicant (petitioner) in that there is a likelihood that a statutory bar would prevent applicant from pursuing the application. In particular, applicant has now advised the undersigned that a product incorporating the claimed invention was first ordered by a customer on November 15, 2000. Thus, the on-sale bar is in effect, denying applicant the

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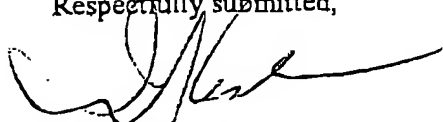
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right to seek patent protection for his invention as a result of a third party action (the Postal Service's response to the anthrax emergency) if an earlier filing date is not granted.

For the reasons noted above, it is requested that the Patent and Trademark Office grant the aforementioned petition with the modification that the reassigned filing date be no later than November 10, 2001.

Respectfully submitted,



Irving Keschner  
Attorney for Applicant  
Reg. No. 24,547  
July 3, 2002

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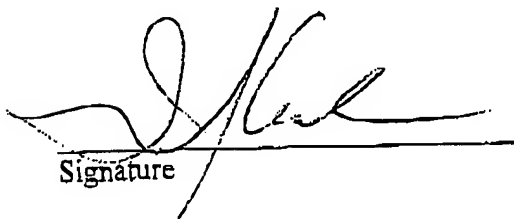
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DECLARATION

I, Irving Keschner, declare as follows:

1. That I am the attorney prosecuting application serial no. 10/036,167 on behalf of the applicant Walter N. Bakly, Jr.
2. That I have been involved in the field of patent law for over thirty-eight (38) years, including two and one-half years as a patent examiner, over thirteen years as a corporate patent attorney and in private practice for over twenty-two years.
3. That the procedure I utilized in my practice was, before the anthrax event in Washington, D.C. area, to forward patent applications to the Patent and Trademark Office ("PTO") via first class mail unless circumstances dictated (i.e. priority dates, possible statutory bars, etc.) otherwise.
4. That, with respect to the '167 application, my recollection is that it was executed on and deposited in the Postal Service facilities on October 31, 2001, the date of the filing fee check (copy of check enclosed) well before the critical date of November 15, 2001.
5. That my prior experience with mail forwarded to the PTO via first class mail was that it typically took no longer than five (5) days to reach the PTO when mailed from California.
6. That in view of the anthrax event in the Washington, D.C. area and, as a result, the Postal Service's delay in delivering the mail to the PTO, the '167 application was assigned a filing date of January 4, 2002, a date which, if allowed to stand, will cause applicant irreparable harm.

I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.



Signature

7-3-02  
Date

8351

IRVING KESCHNER  
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21515 HAWTHORNE BLVD., STE. 1150  
TORRANCE, CA 90503

DATE: October 31, 2001 30-3752/1211 897

PAY TO THE ORDER OF Commissioner of Patents and Trademarks \$ 370<sup>00/100</sup>

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FOR Patent App: Western Baby

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